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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,987	12/10/2003	Masato Higuchi	2489.150	5114
7590 03/31/2005				
Geoffrey R. Myers, Esquire Hall, Priddy, Myers & Vande Sande Ste. 200 10220 River Road Potomac, MD 20854		EXAMINER NGUYEN, PHONG H		
		ART UNIT PAPER NUMBER		
		3724		

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,987

Applicant(s)

HIGUCHI, MASATO

ed

Examiner

Phong H Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 8-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claims. See MPEP § 608.01(n). Accordingly, the claims 8-10 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the mounting position" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the side surface of said slipping down flat plate building material" in lines 4 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Bennett (2,973,020).

Bennett teaches a cutter apparatus comprising:

- an inclined base 10 having a slope;
- a cutter having a rotatable blade; and
- a cutter fixing means (40, 50, 52).

See Figs. 1-3.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett (2,973,020) in view of Brewer et al. (2,957,244), hereinafter Brewer.

Regarding claim 2, Bennet teaches the cutter fixing means comprising a cutter rail 40, a movable supporter 52 and a cutter holder 50 for supporting the cutter. See Figs. 2 and 4. Bennett fails to teach the cutter fixing means being trained between two opposite

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ends of the slope for horizontal cuts. Brewer teaches disposing a cutter fixing means (10, 70) horizontally for horizontal cuts. See Fig. 1. Therefore, it would have been obvious to one skilled in the art to dispose the cutter fixing means of Bennett horizontally as taught by Brewer for horizontal cuts.

Regarding claim 4, the cutter rail having a pair of rods 40 and the movable support 52 having a pair of holes are best seen in Figs. 3 and 4.

Regarding claim 5, means (60) is for adjusting the mounting position of the cutter holder 50 is best seen in Figs. 2-4 in Bennet. Different thicknesses of element 60 change the distance between the saw blade and the slope.

8. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett in view of Brewer as applied to claims above, and further in view of Pease (3,586,077).

Regarding claim 3; the modified cutter apparatus of Bennett fails to teach the cutter rail having a groove and the movable support having a fitting portion having a shape fitting to the rail groove. Pease teaches a cutter rail 12 having a groove, a movable support 58 having a fitting portion having a shape fitting to the rail groove and a cutting holder 70. See Figs. 1 and 2. Therefore, it would have been obvious to one skilled in the art to substitute a cutter rail having a pair of rail rods as taught by Bennett for a cutter rail having a groove as taught by Pease as an alternative design of the cutter rail since both designs work equally well in a cutter apparatus.

Regarding claim 5, claim 5 reads on a screwdriver for removing the screws 70 from elements 56 and 58 (adjusting the mounting position of the cutter holder with

respect to the movable support portion) to remove the saw assembly from elements 58 and lift it away from the slope (to change the height of the rotary blade from the slope). Using a screwdriver to unscrew the screws 70 is routing skill in the art.

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett in view of Brewer and Pease as applied to claims above, and further in view of Ferdinand et al. (4,362,196), hereinafter Ferdinand.

The modified cutting apparatus of Bennett teaches the invention substantially as claimed except for a side stopper. Ferdinand teaches a side stopper 13 for a cutting apparatus. See Fig. 1. Therefore, it would have been obvious to one skilled in the art to provide a stopper as taught by Ferdinand to the modified cutting apparatus of Bennett for prevent horizontal movement of work pieces.

It is noted that the stopper in Ferdinand is moveable perpendicular to the direction of the inclination as it is incorporated to the modified cutting apparatus of Bennett.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eijnde (6,736,043 B1), Harter (5,582,088), Gebhardt (3,945,285), Kerr (4,406,200), Binder et al. (6,058,819), Striebig (3,283,790), Olson (3,008,498) and Fisher (2,711,194) teach cutting apparatuses for plate material of general interest.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN:

March 24, 2005


Allan N. Shoap
Supervisory Patent Examiner
Group 3700